

**GAYLA DUKE**  
**September 24, 2010**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

PATTY BEALL, MATTHEW MAXWELL, )  
DAVID GRAVLEY, TALINA MCELHANY, )  
KELLY HAMPTON, CASEY BROWN, )  
JASON BONNER, ANTHONY DODD, )  
ILENE MEYERS, TOM O'HAVER, JOY )  
BIBLES, AND MELISSA PASTOR, )  
Individually and on behalf of )  
all others similarly situated, )

PLAINTIFFS )

-vs- )

TYLER TECHNOLOGIES, INC., AND )  
EDP ENTERPRISES, INC., )

DEFENDANTS )

CASE NO.  
2:08-cv-422 TJW

\*\*\*\*\*

**DEPOSITION OF GAYLA DUKE**

Taken on the 24th day of September, 2010  
At the Office of Heather Scott, CSR-RPR-CRR  
120 East Carl Albert Parkway, Suite B  
McAlester, Oklahoma

\*\*\*\*\*

Heather Scott, CSR-RPR-CRR  
120 East Carl Albert Parkway, Suite B  
McAlester, Oklahoma 74501

**CSI GLOBAL DEPOSITION SERVICES**  
**972-719-5000**

**EXHIBIT 23**

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2 FOR THE PLAINTIFFS:

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1     A           Correct. Which that meant more travel hours than I  
2                agreed to do.

3     Q           Okay.

4     A           But they always had clients who needed something to  
5                get done or some kind of -- whatever reason: "We'll wait  
6                till next week, next month to have you a home week," or  
7                you know, or to finish up with the client.

8                MS. HOLMES RAY: Wait for him to ask a question.

9                THE WITNESS: Oh, I'm sorry. Okay.

10    Q           (By Mr. McKeeby:) The Exhibit 2 that you mentioned  
11                was the document that showed your time while you were a  
12                customer support employee; is that correct?

13    A           Correct.

14    Q           And did you say that was something you just kept on  
15                your own?

16    A           I asked them did they want this type of thing, and  
17                also, I asked about overtime. And they said -- I was  
18                told, "You're a salaried employee, you don't get  
19                overtime."

20    Q           Who did you have this conversation with?

21    A           My supervisor.

22    Q           Is this Kathy Shew, Kathleen Shew?

23    A           Kathleen Shew, uh-huh.

24    Q           Did she work in Lubbock?

25    A           Yes. And she had said, "Well, if you ever have to

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1 work over sometime, you could take it off later," that  
2 type of thing. So what I did, so they would always be  
3 aware of things, was keep track of it.

4 Q So this -- is this a form you -- this Exhibit 2, is  
5 this a form you --

6 A Yes.

7 Q -- created?

8 A Yes.

9 Q You're not aware that other employees used this type  
10 of form?

11 A I don't know. I worked remotely; I wasn't there.

12 Q Right. But in terms of -- this format is something  
13 that you came up with and you submitted on a regular basis  
14 to your supervisor?

15 A Yes.

16 Q And you had the conversation that you mentioned with  
17 Ms. Shew about, you know, you were going to -- since you  
18 were working remotely, you were going to provide this to  
19 her?

20 A I don't know if we talked about it and we decided  
21 this would be a good thing to do.

22 Q All right.

23 A I don't know if it was -- it wasn't anything she told  
24 me to do or we just talked about it and "Would this be a  
25 good way to keep track of it?"

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1 Q Okay. So let me -- let me have you explain to me  
2 how -- what this form means. Let's start with December of  
3 2008, on the first page, because I don't -- just don't  
4 understand. I was looking at it, in anticipation of your  
5 deposition, trying to figure it out, and I couldn't.

6 These numbers, 1 through 31, are those the days of  
7 the month in December?

8 A Yes.

9 Q So these 8, 8.25, those are the numbers of hours that  
10 you worked --

11 A Yes.

12 Q -- during those days?

13 A Yes.

14 Q And this was when you were in a support function?

15 A Yes.

16 Q Okay. And then what you would do would be to submit  
17 this document to Kathleen Shew?

18 A Yes.

19 Q And you kept a copy for yourself?

20 A Yes. The first -- yeah, that's it.

21 Q PTO hours, I take it, means Personal Time Off?

22 A They didn't have like so much vacation, so much sick,  
23 or anything. They called it PTO hours if you took time  
24 off.

25 Q Right. So when you -- like on this -- looks like the



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1 22nd of December, around the holidays, you indicated that  
2 you took eight -- you took eight hours of PTO time.

3 A Correct.

4 Q Which means you didn't work that day?

5 A Correct.

6 Q So what does this mean "Time Balance Forward, 4.5,"  
7 that's at the end of the month?

8 A That means I had an extra balance of four and a half  
9 extra hours for the whole month that I'd worked over.

10 Q Over 40?

11 A Well, I --

12 Q But what's --

13 A -- I kind of did it on a daily basis. The column  
14 here, if I worked eight and a half hours, I would add .25  
15 to my balance.

16 Q I see. I see. So that 4.50 is the total over the  
17 balance of eight hours per day that you would have worked?

18 A Correct.

19 Q And did that have any significance in terms of the  
20 amount of work you would do the next month, or your  
21 compensation or otherwise?

22 A My pay stayed the same.

23 Q Okay. Did it have any significance in terms of what  
24 I said at the beginning, about the number of hours that  
25 you would work the next month?

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1 A Did this 4.5 change how many hours I'd work the next  
2 month?

3 Q Yeah.

4 A I just kept a rotating balance. And if I had to take  
5 any time off, I would adjust it against that --

6 Q Meaning what?

7 A -- or if I didn't work a full eight hours.

8 Q You would credit --

9 A Like if I had to go to the dentist or something like  
10 that.

11 Q Okay. Can you give me an example, from looking at  
12 the form?

13 A When you see the negative here --

14 Q On the second page?

15 A Yes.

16 Q The negative, like for -- like --

17 A Eight hours --

18 Q -- eight hours, right?

19 A -- sick, four and a half sick.

20 Q So what do you -- how does the 4.5, that you carried  
21 over from the previous month, factor into or relate to  
22 those numbers?

23 A It starts -- there's a running total here. It runs a  
24 balance.

25 Q I see.



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1     A           And every time I'd work, a positive number would add,  
2           a negative number would subtract --  
3     Q           Okay.  
4     A           -- until I made up the time.  
5     Q           Got it. Now --  
6     A           And that was approved by the supervisor.  
7     Q           By Kathleen Shew?  
8     A           Yes.  
9     Q           Did you talk to anyone else at Tyler about this  
10           practice?  
11    A           No.  
12    Q           Okay. Did you talk to anyone else with Tyler about  
13           this practice?  
14    A           No.  
15    Q           This was just between you and Kathleen Shew?  
16    A           She was my supervisor.  
17    Q           No, I'm just asking. I just want to see if you had  
18           discussions with human resources or anyone, Dyke Ellison,  
19           nothing like that? This is between you and Kathleen Shew?  
20    A           Yes.  
21    Q           Okay. Did you have something you wanted to add?  
22    A           It looks like when I talked here and I said I was  
23           still having billable hours, it looked like I was even  
24           still having billable hours in January.  
25    Q           How can you tell that?

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1     A           "Bill Parma" was my note to the side.

2     Q           What's Parma?

3     A           That was a city in New York. They billed the  
4           customer.

5     Q           This was -- that was some of the remote work that you  
6           were talking about?

7     A           Uh-huh.

8     Q           Yes?

9     A           Yes, sir.

10    Q           And you -- specifically, I think you said, you helped  
11           the customer go live remotely?

12    A           In December, but apparently I was still ongoing work  
13           for them.

14    Q           In January? But the work that you were doing was  
15           go-live assistance?

16    A           Right. And even when my -- this was when the -- I  
17           had Internet access at my house -- my home, and I even  
18           gathered a copy of the document, I had the company send  
19           it. I even took off time, whenever my computer went down,  
20           which was no fault of my own, when I couldn't work.

21    Q           While you were a customer support employee, you  
22           worked from your home; you didn't travel to customer  
23           locations?

24    A           No.

25    Q           Correct?

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1 A No.

2 Q I got a double negative there. That's a --

3 A I did not travel.

4 Q Okay. To customer locations?

5 A Correct.

6 Q Would you agree with me that you worked less hours  
7 when you were in a customer support capacity than you did  
8 when you were in an implementation consultant capacity?

9 A I didn't have the travel hours and I didn't do work  
10 outside the realm of hours, like the work for all the -- I  
11 didn't have as much documentation and paperwork.

12 Q But just in terms of the total number of hours -- not  
13 talking about the complexity of the work or anything like  
14 that, but just the number of -- total time that you spent  
15 working at Tyler, if we include the travel time, you would  
16 agree with me that you worked more hours as an  
17 implementation consultant than you did as a customer  
18 support employee?

19 A Yes.

20 Q Same question. If we took the travel time out, let's  
21 say we're defining work to not include travel, would it  
22 still be the case that if you took the travel time out --  
23 just when you're on the road, if you took that out of the  
24 equation, would you still have worked more hours as an  
25 implementation consultant than you did as a customer

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1 support employee?

2 A Probably -- it would probably still be more hours for  
3 the implementation consultant.

4 MR. McKEEBY: Can I take a short break?

5 MS. HOLMES RAY: Uh-huh.

6 \*\*\*\*\*

7 (A break was taken at 11:42 a.m. The following  
8 continued thereafter at 11:49 a.m.:)

9 (Deposition Exhibit Number 4 was marked for  
10 identification.)

11 Q (By Mr. McKeeby:) Back on the record, Ms. Duke. I'm  
12 going to hand you a document that I've marked as  
13 Exhibit 4, and will represent to you that this is also a  
14 document that was produced by your lawyers in this case.  
15 Does that look familiar to you?

16 A I guess, yeah.

17 Q Does it look like your offer letter?

18 A Probably.

19 Q Do you -- would you agree that you --

20 A I probably have a copy somewhere. I just don't  
21 remember with all the paper.

22 Q Do you think you provided that copy to your lawyers?

23 A I don't -- I don't know. I haven't seen this --

24 Q Do you think you --

25 A -- in a long time.

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1 A Yes, sir.

2 Q Would you typically have discussions with the project  
3 manager before you would go to the customer location?

4 A Sometimes, yes.

5 Q Okay. Would the customer -- would the project  
6 manager be at the customer location while you were there,  
7 typically?

8 A No, usually not.

9 Q Usually, it wouldn't -- there wouldn't be anyone  
10 there, other than -- from Tyler, in any event, while you  
11 were there?

12 A Usually not. Sometimes there might be other people  
13 working on other applications.

14 Q That may have overlapped with your time?

15 A Correct.

16 Q Would it be typical for you to have spoken with the  
17 client before you arrived at the customer location?

18 A To call and confirm with them what time they could  
19 expect the arrival.

20 Q That would be typical?

21 A Yes. And we'd try to do that the week before.

22 Q Okay. And when you said they would be starting from  
23 scratch, that was one of the examples of what the e-mail  
24 notification would tell you you might be doing, you meant  
25 by that, that they were purchasing the Incode software to

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1           replace a previous software system?

2       A           It would also indicate whether they -- the  
3           programmers would be doing a conversion or whether they  
4           were just going to enter balances and go, whether there  
5           was going to be any converted history to where they could  
6           look up history.

7       Q           Okay. But when you -- but the -- the -- when you  
8           use -- when you said "starting from scratch," that  
9           meant they're --

10      A           Brand new.

11      Q           -- just a new customer?

12      A           A new customer.

13      Q           Got it. Okay.

14                Once you're at the customer location, did what you --  
15           the job that you performed as an implementation consultant  
16           vary depending on what it was that you would be doing in  
17           terms of whether particular functions that you had to  
18           perform, if the customer was starting from scratch, that  
19           you wouldn't have to perform if you were just training new  
20           employees on an already existing system?

21      A           Yes.

22      Q           What functions did -- can you think of that would be  
23           specific to starting a customer from scratch that you, as  
24           an implementation consultant, would perform?

25      A           I'm not sure I understand what you're saying --



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1 asking.

2 Q Okay. That -- that's fine. You told me about an

3 e-mail that you would get that would tell you, "Here's

4 where to go," and we've kind of covered that. But it

5 would also tell you, "Here's what you're going to be

6 doing."

7 An example you gave is you're going to be training

8 new employees. They may have hired several or however

9 many new employees they needed to be trained, so in that

10 case, I understood you would be training new employees on

11 a system that was already in place.

12 A Correct.

13 Q And let's just take that as an example. I take it,

14 in that case, you would -- you would go to the customer

15 facility and do a training session for these new employees

16 that might last anywhere from one to several days?

17 A Most of the time, they'd send us out on week-long

18 assignments.

19 Q Okay.

20 A There was a few times where I would have to travel in

21 between times on the week.

22 Q Okay.

23 A But a lot of the times, it was one-on-one type of

24 travel, rather than teaching a whole group of people.

25 Q Okay. One-on-one training, you mean?

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1     A           Yes, I meant training.

2     Q           Right. Right. Okay. So let's focus a little bit on  
3           this new employee training. And I take it when you're --  
4           when that's the job that's being performed by you as an  
5           implementation consultant, you are doing -- you're going  
6           up to the customer location and the customer identifies  
7           the new employees that need to be trained, and then you  
8           train those employees, correct?

9     A           Yeah. Now, a lot of the times, the customer, whoever  
10          the contact was, would have already kind of had a plan in  
11          place kind of with the project manager, as well.

12    Q           And by "plan," what do you mean? Like a schedule?

13    A           Kind of, yeah.

14    Q           Like who would be trained at what time?

15    A           Well, like they may say, "You need to spend this day  
16          with her going over purchase orders, and then the lady  
17          over in Fixed Assets needs some training, she's had some  
18          problems or moved from a new department," or whatever.  
19          So I would usually meet with whoever was in charge first,  
20          and they were always already prepared about the whole  
21          process.

22    Q           Okay. Did you, in your role as an implementation  
23          consultant -- again, I'm focusing now on this -- these  
24          examples where you would be training new employees.

25    A           Okay.

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1     A           It might be the finance director; it might be the  
2                supervisor. You might have to show up and talk to the  
3                city manager; you -- you never knew.

4     Q           It would depend on the customer, right?

5     A           Yeah.

6     Q           Okay.

7     A           Might be the city clerk. Might be -- you know.

8     Q           Okay. Again, focusing for now on these -- this --  
9                their training new employees and that's the role that  
10               you're performing. How many -- ballpark again, how many  
11               trips did you make during -- between -- where are my  
12               dates -- between February and March of '08 and October of  
13               2008, when you moved to customer support? How many trips  
14               did you make where you were just training new employees,  
15               approximately?

16    A           I don't know. I'd have to look through my -- all my  
17                trip and assignment notes.

18    Q           Yeah, more than -- more or less than ten?

19    A           I don't know. I'd -- I'd hate to guess, because I'm  
20                not for sure.

21    Q           Okay. How about more or less than two?

22                       MS. HOLMES RAY: Object to the form of the  
23                       question. She's asked and answered.

24                       You can answer.

25                       THE WITNESS: Yeah.

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1 Q (By Mr. McKeeby:) More than two?

2 A More than two sites that I went to where it was just  
3 already established customer?

4 Q And you're training new employees. You gave me that  
5 as an example.

6 A Well, it may not be -- it may not just be new  
7 employees; it may be an established customer, but they may  
8 just wanted more training, they may not be getting it or  
9 they're having problems, or -- you know, yeah. I don't --  
10 I don't know.

11 Q Okay. Well, let's --

12 A I don't have that in my head.

13 Q Okay. Well, let's define it that way.

14 A Most -- most -- I would say probably most of my jobs  
15 were probably either new customers or where they were  
16 adding applications --

17 Q Okay.

18 A -- you know. But I did have a few where it was  
19 training. And also, if I did ever get to have a week at  
20 home where I was working remotely, a lot of times those  
21 would be where I would do just the training, where I would  
22 connect by the telephone and I would connect remotely  
23 through the Internet to their computer and I could -- we  
24 could both see the screen at the same time.

25 Q I see. So, in that instance, you would be doing

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1 remote training where you would be training maybe a new  
2 employee --

3 A Uh-huh.

4 Q -- or maybe an existing employee and just doing a  
5 refresher --

6 A Just wanting more, yes.

7 Q Okay. Okay. But you would agree that more of your  
8 job, as an implementation consultant, was devoted to  
9 either customers that were starting from scratch or  
10 customers who were -- had purchased a new module of the  
11 Incode software?

12 A It would be hard to guess. I -- you know, and it's  
13 been so long, I'd have to sit back and look at what jobs I  
14 actually did. I'd -- I'd hate to say. I don't know if  
15 that would affect anything, so I hate to answer it wrong.

16 Q Well, I'm not asking you to answer -- I understand  
17 that, but I thought you did answer and that's why I guess  
18 I'm confused. I thought you said --

19 A Well, I'm thinking, you know, a lot of it was the  
20 newer ones, but then -- but then other ones are popping  
21 into my head that oh, yeah, I forgot about that and --

22 Q Okay.

23 A -- you know, so it's just been a while.

24 Q Okay.

25 A When you get my age, it's hard to remember every

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1           single thing.

2       Q           I'm getting there.

3           All right. So -- so let's -- let me ask a different  
4       question, and sort of get at this a different way.

5           When a customer is starting from scratch, I think you  
6       told me previously that there were certain functions that  
7       you performed that were different than when you were  
8       either training new employees or supporting a new module  
9       for an existing customer.

10          First of all, do I have that right?

11       A           Correct.

12       Q           What functions are those?

13       A           Well, usually, when you arrived, the -- the software  
14       had already been installed on your network, they had  
15       already done all of that part and it was just sitting  
16       there ready to go, with a little bit of setup, based on  
17       the customer's preferences.

18       Q           So are you -- you're talking now about -- about new  
19       customers?

20       A           Yes. Whether it's new or if they just added  
21       something.

22       Q           Right.

23       A           Now, all of that software was usually put on remotely  
24       from the home office by the time you'd get there.

25       Q           Right. That's not something that you did?



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1     A           No.

2     Q           In terms of software installation?

3     A           No.

4     Q           All right. That's a true statement, you didn't do

5               that?

6     A           No, I'm -- I'm not a computer whiz.

7     Q           All right.

8     A           But no.

9     Q           Okay. So that -- so by the time that you get to the

10               customer location, the software has been installed on the

11               network. Do you participate in any meetings with the

12               customer, in these instances where it's a new customer

13               starting from scratch, about, you know, different options

14               within the software or different variables in the software

15               that they may or may not want to activate?

16    A           Not before I went there.

17    Q           Okay. I'm talking about once --

18    A           After I got there, yes.

19    Q           -- when you get there, do you have those types of

20               discussions?

21    A           Usually or -- or we would have it at the same time we

22               were going things -- going through things and the

23               customer -- you know, here is the main little

24               administrative setup screen and you'd go through those

25               things, you know, and click on them as you set them up.

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1 Q So you're describing -- what you're describing right  
2 now is not necessarily training end users how to use the  
3 software, correct?

4 A Not this part -- part of things, no.

5 Q What do you call --

6 A But in a way, it is training, because they have to  
7 maintain their system if they want to go change something,  
8 the way something works.

9 Q Right. But I'm talking -- I'm trying to make a  
10 distinction, and you tell me if it's one that I shouldn't  
11 be making, but between what you just described and  
12 teaching a clerk how to enter a purchase order.

13 A Correct.

14 Q There's -- you're doing something different in this.  
15 I mean there is a training aspect of it, but it's  
16 something different, as well, right? In terms of you're  
17 not teaching the end user how to use the software in a  
18 sense of entering a purchase order, right?

19 A Well, in order to enter a purchase order, you have to  
20 have a vendor.

21 Q Okay.

22 A And so I'd show them, here's where you set up your  
23 vendors; here's the box you check if you want them to get  
24 a 1099; here's where you put their address; here's where  
25 you put their tax I.D. number; here's the box you check if

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1           you want one check per item.

2       Q           Right. That, to me, sounds like you're teaching  
3           somebody how to enter a purchase order, right?

4       A           No, that's how to set up a vendor.

5       Q           Okay.

6       A           When you enter a purchase order, it has to have a  
7           vendor. So these little things would all kind of play  
8           together.

9       Q           I see.

10      A           But we would usually kind of work together, and  
11           then -- and if it wasn't where the programmer that works  
12           off site was going to take their old software and enter it  
13           in their new software, then the vendors would already be  
14           there they have from the old system. If not, we -- we  
15           would show them here's how we do it, and we would start  
16           data entry, putting -- putting their data into the  
17           software.

18      Q           And that would depend on whether or not that type of  
19           data had been converted from their old system?

20      A           Correct.

21      Q           And were you involved in the process of deciding  
22           whether or not to convert the data?

23      A           They worked that all out with the programmers before,  
24           because that's all part of the pricing and everything.

25      Q           Okay. Okay.

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1     A           And they had to schedule the programmers and they  
2                would usually pull test data before I'd ever arrived, and  
3                worked up a program.

4     Q           Okay.

5     A           Uh-huh.

6     Q           So you didn't do the actual conversion of the  
7                information?

8     A           No.

9     Q           Okay.

10    A           A programmer does that.

11    Q           Okay. In instances where either they were unable,  
12                for technology reasons, to do a conversion or they didn't  
13                want to pay a conversion, you indicated that there were  
14                some situations like that, correct?

15    A           Correct.

16    Q           And what did you -- what role did you have? Is that  
17                where you had some data entry functions?

18    A           Yes.

19    Q           Is that your testimony?

20    A           Yes.

21    Q           What would you do -- what kind of functions are you  
22                talking about?

23    A           Usually, the customer would work with me. But like  
24                the example of setting up a vendor, you know, they may  
25                have a page -- pages of their vendors, so we say this is

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1           how you set them up, and they would help do the data  
2           entry, and I would do the data entry, as well.

3       Q           So you would show them how to do the data entry?

4       A           Yeah. And we would work together, usually.

5       Q           Okay.

6       A           Usually, the clients would want that, you know.  
7           That's part of their --

8       Q           Right.

9       A           -- learning how to do things, as well.

10      Q           Right.

11      A           Plus, they'd probably rather help out than --

12      Q           Pay you --

13      A           -- pay -- well, not me -- Tyler Technologies, yeah,  
14           130 or \$150 an hour.

15      Q           Was that your billable rate, or did you have one?

16      A           I think they all -- we all had the same. It wasn't  
17           different for different level of employees. They billed  
18           the same for everybody.

19      Q           Okay.

20      A           Whether it was utility billing or core or whatever.

21      Q           I see. Okay. So in that, what you just described,  
22           you were training customers about as to how to enter  
23           information and you were also entering some information on  
24           your own?

25      A           Uh-huh.

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1 Q Is that process called anything? Is there a term  
2 used at Tyler to describe that function? Is it just  
3 called training?

4 A Well --

5 Q That's billable work, right?

6 A Yeah. Whenever I was at the job, it was billable  
7 hours.

8 Q Okay.

9 A And, you know, sometimes, they didn't want to be  
10 involved in doing the entry, you know. And sometimes,  
11 they would let us stay there and work after hours, you  
12 know, to -- to do the data entry type of thing.

13 Q Would that affect how they were billed?

14 A It's all by the hour.

15 Q So if they elected to have you stay after working  
16 hours and do some of this work, you would bill them more  
17 than eight hours?

18 A Correct.

19 Q Okay. Did -- I lost my train of thought.

20 Oh, you talked about explaining different functions  
21 or variables within the software to the customer, this  
22 would be a new customer. What did you mean by that, if I  
23 have it right?

24 A Usually, whoever is the supervisor or whatever, has  
25 access to more -- to -- to more parts of the system where



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1           you can customize the way things work, and so that  
2           usually, whoever does that needs to kind of know how to do  
3           that, as well, similar to -- to what I had to learn, to  
4           learn how to view one.

5       Q           So -- so this -- you're describing a meeting between  
6           yourself and a supervisor, where you're giving them -- or  
7           explaining different customization options?

8       A           I think everybody had their own style, but I always  
9           found it was helpful to have them there with me so they  
10          could see what was going on so they could understand the  
11          software better.

12                Like here's where -- here's the check box if you want  
13          employees' names to show up on the check register or if  
14          you want it to be blacked out for security reasons. If  
15          you wanted to change that later, you would go -- this is  
16          where you would check the box.

17       Q           Would you -- in situations where you were doing the  
18          data entry work, how would you know what to do?

19       A           Know -- you would have to get that from the customer  
20          or it had already been provided in the worksheets that the  
21          project manager gave you, about what -- how they wanted it  
22          done.

23       Q           Okay. Did you ever take like a questionnaire -- was  
24          there ever a questionnaire-type document given to you  
25          whereby you would sit down with the customer and ask them

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1           questions about their processes, you know, who needed  
2           authority to approve a purchase order, things like that?

3     A           A lot of times it -- most of the time, it was already  
4           done ahead of time. They had --

5     Q           By the project manager?

6     A           Yeah. It was --

7     Q           And this would be part of the packet that the project  
8           manager prepared for you?

9     A           Yes.

10    Q           Okay.

11    A           A lot -- a lot of the times.

12    Q           Okay.

13    A           We might look over it again to make sure that's what  
14           they really wanted, and those type of things, but --

15    Q           Okay. And you would sit down with the customer and  
16           explain that process?

17    A           No, it was usually -- they -- they seemed to do a  
18           real good job of kind of already getting them ready, ahead  
19           of time, and maybe --

20    Q           Did -- are you other -- I've talked to other  
21           implementation consultants during the course of this  
22           litigation, as you might imagine, and some of them have  
23           used the term "configuring" the software. Is that a term  
24           with which you're comfortable, configuration?

25    A           I guess I never used that word much myself,

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1           personally, but --

2     Q           So if I asked you --

3     A           I guess that means, like what I was talking about, I  
4           would usually have the customer sitting here, we'd be  
5           looking at the screen, and I'd say if we -- "Do you want  
6           it to automatically default to give them a 1099 or do you  
7           want the option on each invoice?" and they'd say yes, and  
8           I'd say okay, we'd check this box, you know --

9     Q           Okay.

10    A           -- that type of thing.

11    Q           So you're setting the parameters, in that sense?

12    A           No, they are.

13    Q           Well, they're telling you --

14    A           We were always --

15    Q           You're having a dialogue about it?

16    A           Yeah. We were always, always told to be careful,  
17           don't give advice, even if you think they're doing  
18           something wrong accounting-wise, like if they say, "Huh, I  
19           wonder if that should be taxed this way or not," they  
20           always, always told us, even though we may have had  
21           accounting experience, we are not a CPA firm, do not give  
22           accounting advice.

23    Q           Right.

24    A           Because they acted like they didn't want to have a  
25           liability. They said, "We don't -- we're not a CPA firm,

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1 we don't have insurance for that. Do not give advice."

2 And anything that the customer would decide, we'd have

3 them sign off on.

4 Q Right. But some of the questions, you would agree

5 with me, wouldn't involve accounting advice if they're

6 just asking, you know, if they want to do a 1099

7 automatically or if they want that generated on a

8 per-payment basis. That's just a matter of --

9 A Right.

10 Q -- how the system is set up.

11 A But if they would ask me, "Do I need to send a 1099

12 to that kind of vendor" --

13 Q Okay. I agree.

14 A -- I would have to say, "You check with your CPA."

15 Q Right.

16 A "You check with your financial advisor."

17 Q But what if they asked you, "Is it better for me to

18 set up the system where the 1099 is issued automatically,

19 or is it better for me to do that on a per-vendor basis?"

20 A Well, I always thought the beauty of the software was

21 that it would do versatile things for different people,

22 and -- and I don't know, I -- I was -- I just go by what

23 the customer -- I would explain to them what the options

24 were. I felt like that was my job --

25 Q Right.

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1 A -- is you can do A, B, or C, but they would --

2 Q Select which one?

3 A Yeah. It seemed like they were always happier

4 customers if they understood why it was that way. I -- I

5 don't think it's right to go in and say, "This is how

6 you're doing it," and make --

7 Q But they would sometimes ask you for your advice,

8 wouldn't they?

9 MS. HOLMES RAY: Object to the form of the

10 question.

11 Q (By Mr. McKeeby:) I mean you talked about A, B, C or

12 D is different options. Wouldn't they sometimes ask you,

13 you know, "Which do you think is better?" Wouldn't they

14 ask those kind of questions?

15 A Not usually. Most of the time our clients already

16 kind of had an idea what they wanted. It was usually me

17 saying, "yes, ma'am," you know, but --

18 Q Okay.

19 A You know, to start out with, so much of the big

20 decisions had already been -- like their chart of

21 accounts, you know -- now, I might have to say -- when

22 they say, "Well, I want my -- my -- my numbers" -- how

23 could I say this? "My chart of accounts may start with a

24 5 for expenses, and then I want to -- to have this other

25 number in here, and at the end is the department and I

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1           want a sort on this," I would have to say, "Well, our  
2           software only works -- it sorts left to right. You can't  
3           put that number over here on the right and it still work."  
4           I might have to say to them, "It won't work that way in  
5           our software."

6       Q           Right.

7       A           "We have to do it this way."

8       Q           Right. Okay. When you use the term "chart of  
9           accounts," what do you -- what do you mean?

10      A           That's the listing of their general ledger accounts.  
11           Like here's all my numbers for my assets, here's my  
12           liabilities. A lot of the times, if it -- especially if  
13           it was converted -- converted data, that was already done  
14           by the time we showed up.

15      Q           But if the data wasn't converted, then you would have  
16           some additional responsibilities with respect to the chart  
17           of accounts?

18      A           Well, it was just that we would have to manually type  
19           them in. It -- it was a whole lot more data entry if you  
20           didn't get a conversion. For the most part, they'd either  
21           pay for the programmer or they had to pay for data entry.

22      Q           Okay.

23      A           If I ever got stuck, though, especially being new, it  
24           was always call the office if you have any questions. We  
25           had to -- especially for the newer employees.



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1       Q           Right. But there were times where you would -- you  
2           know, they might have set forth, you know, okay, during  
3           this week, you're going to train on an implement, these  
4           particular modules where, you know, because of the  
5           customer's preference or because the customer wasn't  
6           picking it up, you wouldn't be able to do the training on  
7           all of those modules and you would have to talk to the --  
8           have to put it in your report, you know, here's what we  
9           were able to do, weren't able to complete everything.

10       A           It could depend on a lot of things, even on the  
11           conversion. If it was software, old -- they had old  
12           software that we had pulled data from before and the  
13           programmers already knew that software in and out and they  
14           knew how to do it, nine times out of ten, when the -- you  
15           know, the programmer would get attached to this machine  
16           and -- and download the data, and all you had to be is  
17           kind of their eyes, and look, yeah, this is in the  
18           wrong -- the right place.

19                   And it -- or if it was something they never worked  
20           before, they may have to do 10 or 12 tests to get  
21           something working right, and then that would shorten your  
22           time for training. So it all -- there was all kinds of  
23           factors to juggle.

24       Q           Would you be at the customer location when the  
25           customer would go live with the software, typically, as an

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1 implementation consultant?

2 A Sometimes, yes.

3 Q What would that depend on?

4 A Well, scheduling and all those things, too. I mean  
5 the -- I may be one that comes and helps start the job and  
6 they may send someone else to -- to finish it and be the  
7 go-live person.

8 Q Okay. Or they may send you to be the go-live person?

9 A Uh-huh.

10 Q And if you were the go-live person, that meant you  
11 were, you know, kind of providing training and answering  
12 questions on an as-needed basis?

13 A It's kind of just when -- besides doing practice,  
14 when they're actually doing the work, it's -- and then  
15 you're -- you kind of need to be there to --

16 Q Right.

17 A -- for any questions and things like that.

18 Q In terms of your functions, as an implementation  
19 consultant, what did you do differently, if you were there  
20 just at the final go-live process than the stages that  
21 you've already told me about?

22 A Not a whole lot different at all. It's just this  
23 time it's real; it's not practice.

24 Q But you're completing trip reports, you're -- that  
25 would be something you would do whether or not you were

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1           doing a go-live training or the other type of training?

2       A           Right. The go-live is when they just stop using the  
3           old system and start using the new --

4       Q           But presumably --

5       A           -- for real.

6       Q           -- they would have been trained prior to that point,  
7           by either you or some other implementer?

8       A           They would have to have some kind of --

9       Q           Right. Did you -- while you were an implementation  
10          consultant, did you provide customer support on the  
11          telephone after the go-live process?

12      A           Unfortunately, those people -- you know, they might  
13          have your phone number from when you called them to say,  
14          "I'm going to show up and if you -- if anything changes,  
15          call me." And you'd always get people calling you or  
16          e-mails. That's another thing I forgot about, the things  
17          that you'd have to follow up on. And you'd try to get  
18          them weaned towards going toward support, but a lot of  
19          times they would get attached to you or that type of  
20          thing.

21      Q           So they would sometimes e-mail you or call you on the  
22          phone?

23      A           Yeah.

24      Q           And would you answer their questions?

25      A           Well, you try to keep the customers happy, but you

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1           still try to get them, you know, more weaned, because  
2           that's --

3       Q           You try to get them what?

4       A           Get them more weaned towards using support.

5       Q           All right.

6       A           You know, before you would leave a site, when you're  
7           finished, you have a conference call with the support and  
8           you tell them all the ways they can get help.

9       Q           Right.

10      A           And -- but you don't want a mad customer, either.  
11           But sometimes you can't be available. If you're working  
12           for the next one or you're on an airplane, you can't  
13           answer your phone, you know, so you try to get them to  
14           where they'll, you know, learn to --

15      Q           Okay. Would you ever create any type of user guides  
16           or other manuals or checklists or anything like that to  
17           provide to the customer to help them use the software?

18      A           I didn't personally.

19      Q           Did others do, that you're aware -- do that, that you  
20           were aware?

21      A           I think some of the ones that had been around longer,  
22           more experienced, would teach at the forums where people  
23           would come from other cities to be trained, but I did not  
24           ever teach at a forum.

25      Q           You think some of the other more senior implementers

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1 house, when you're at the hotel room, a lot of times, it  
2 would be getting ready for the next day. You know,  
3 getting stuff together, going over -- reviewing the  
4 documents, things like that.

5 Q Is there anything else that you can think of? I  
6 think we talked, also, about doing the trip reports.

7 A Yes.

8 Q Was that not included in there?

9 A It was one thing the trip, was also the expense  
10 reimbursements --

11 Q Okay.

12 A -- and following up on that, and then doing all of  
13 the submissions for those and then getting reimbursed  
14 and -- that as well.

15 Q Okay. Anything else that you can think of that was  
16 not included in here?

17 A Well, the -- the training time that you would spend  
18 to understand the software better, which would make your  
19 job better, which, you know, the less that you would have  
20 to call the office for.

21 Q You mean for yourself?

22 A Well, it was for the company.

23 Q Self-study, I mean?

24 A Yes. Yes.

25 Q It was -- okay.

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1 A Yeah.

2 Q Okay. Anything else?

3 A I think that probably gets most of it.

4 Q Okay. How -- how would you -- how much would you  
5 say, on average, you worked per week, above what you got  
6 recorded, doing those things we just talked about that's  
7 not included in here? Do you understand my question?

8 A Yeah. I -- the average, because it may be more one  
9 week and -- I'd say at least four -- three or four hours a  
10 week, at least.

11 Q Okay.

12 A Guestimating.

13 Q As I'm understanding it, what you did as an  
14 implementation specialist is you would -- you'd have a  
15 meeting with the client, initial meeting, correct?

16 A Uh-huh.

17 Q And you would do configuration of the software,  
18 that's what we're talking about, the data entry; is that  
19 what you're talking about?

20 MR. McKEEBY: Object to form.

21 Q (By Ms. Holmes Ray:) What are you talking about when  
22 you're saying configuration?

23 A I -- I didn't use --

24 Q I want to make sure I have it right.

25 A I didn't use that word, configuration. I call it

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1        setup --

2    Q        Okay.

3    A        -- you know, but they -- and usually, the client was

4        involved with it, and we would go through the screens and,

5        you know, there was a place where we would enter their tax

6        I.D. number --

7    Q        Okay. Okay.

8    A        -- what's your address, what's this --

9    Q        Got you.

10   A        -- do you -- how do you want this to look? How many

11        numbers do you want for your vendor number? Do you want

12        letters and numbers, combination?

13   Q        Okay. I understand.

14   A        You know, going through all of the background

15        settings.

16   Q        And then you'd have training and then you'd have

17        some -- the go-live --

18   A        Correct.

19   Q        -- and then you'd have a little bit of support when

20        you tried to wean them --

21   A        Yes.

22   Q        -- off?

23   A        Yes.

24   Q        Okay. I just wanted to make sure I had it all down.

25            MS. HOLMES RAY: Okay. I think that's all the

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1 questions I have.

2 MR. McKEEBY: Okay. No other questions.

3 Thank you, Ms. Duke.

4 THE WITNESS: Okay.

5 MR. McKEEBY: Appreciate your time.

6 (An off-the-record conversation was held, after  
7 which the following continued:)

8 MS. HOLMES RAY: We'll read and sign.

9

10 END OF PROCEEDINGS

11 1:02 P.M.

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